State Environmental Quality Review Act (SEQRA) Findings Statement

Sherman Avenue Subdivision

Town of Harrison, Westchester County, New York

SEQRA Lead Agency:
Town of Harrison Planning Board
Alfred F. Sulla Jr. Municipal Building
1 Heineman Place
Harrison, New York 10528

Date:
February 28, 2012

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1.0 PROJECT DESCRIPTION

The Falcon Group, LLC (the "Applicant") proposes to subdivide a 14.62 acre vacant wooded parcel of land located to the east side of Sherman Avenue in the central-western portion of the Town of Harrison, west of the East Branch of the Mamaroneck River, in Westchester County, NY, more specifically known and identified as Block 691 Lot 5 (the "Site").

The Site is located in the R-1 One Family Residence zoning district. It is generally surrounded by existing single-family residences on larger lots to the east, single-family and two-family residences on smaller lots to the west, undeveloped vacant land to the south, and single-family homes to the north. Properties to the north and east are situated in the R – 1/2 and R – 1/3 One Family Residence zoning districts, and the homes to the west are located in the B – Two-Family Residence zoning district.

The proposed action described in the Draft Environmental Impact Statement ("DEIS") involved the subdivision of the Site to create a fourteen (14) lot subdivision consisting of thirteen conventional (13) single-family lots and one stormwater management parcel. Alternative plans presented in the DEIS included a fourteen (14) lot plan (13 building lots with a stormwater management lot) with alternate access routes (Oakmont Drive, Merion Drive and Doroado Drive), and two cluster alternative plans consisting of a fourteen (14) lot plan with an open space parcel and a thirteen (13) lot with an open space parcel. Two additional alternative plans were presented in the Final Environmental Impact Statement ("FEIS"). The first is a third cluster plan consisting of eleven (11) clustered lots located of an extension of Sherman Avenue, one (1) conventional lot accessed from Dorado Drive and an open space/stormwater management lot. The final alternative consists of eight (8) clustered lots located off an extension of Sherman Avenue, one (1) conventional lot located off Dorado Drive, and an open space/stormwater management lot.

2.0 SEQRA REVIEW PROCEDURE

In December of 2004, the Applicant submitted an application to the Town of Harrison Planning Board for the consideration of a 15-lot subdivision of the Site to accommodate 30 two-family dwellings. The initial application was submitted under the incorrect assumption that the Site was located within the B - Two-Family zoning district. The applicant was informed of this error by the Planning Board, and that application was withdrawn. In May of 2005 a revised 14-lot subdivision, based on the applicable R-1 One-Family residence zoning district provisions was submitted. On

June 21, 2005, the Planning Board designated its intention to serve as Lead Agency for the SEQRA review of this Action. On July 26, 2005, there being no objections to the Planning Board serving as Lead Agency, the Planning Board confirmed it's Lead Agency designation, and adopted a Positive Declaration, thereby requiring the Applicant to prepare an Environmental Impact Statement.

On September 20, 2005, the Lead Agency conducted a public Scoping Session to solicit public input, and to refine the draft scope of the Draft Environmental Impact Statement.

In November of 2007, the Applicant submitted a draft DEIS to the Planning Board, which was reviewed for completeness by the Planning Board's consultants. Comments were delivered to the Applicant regarding the completeness of the DEIS.

A revised DEIS was resubmitted to the Planning Board, and the Lead Agency determined the DEIS to be complete, and a Notice of Completion of the DEIS was adopted by the Lead Agency. On March 25, 2008, the public hearing on the DEIS was conducted by the Lead Agency, at which time all those whishing to speak on this matter were provided an opportunity to be heard.

In response to the comments received from the Lead Agency, all Involved and Interested Agencies, and the public, the Applicant prepared a Final Environmental Impact Statement (FEIS) which was submitted to the Planning Board. On June 20, 2011, the Lead Agency determined the FEIS to be complete, and a Notice of Completion of the FEIS was adopted by the Lead Agency. A written public comment period was extended.

The Applicant has agreed to waive the requirement to file the Findings Statement set forth in §617.11 (b) to February 28, 2012.

3.0 REQUIRED PERMITS & APPROVALS

1. Town Board
    a. Cluster Subdivision

2. Town Planning Board
    a. SEQRA Determination
    b. Subdivision Approval
    c. Steep Slope Permit Approval
    d. Wetlands Permit Approval

3. Town Departments
   a. DPW – Access Permit
   b. Engineering Dept. - SWPPP
   c. Building Dept. – Grading Permit, Fill Permit, Building Permit, Certificates of Occupancy.

4. Westchester County
   a. WCDOH – Wastewater Collection System, Water Distribution System, Realty Subdivision
   b. WCDEF - Sanitary Sewer Connection

5. New York State
   a. NYSDEC - SPDES General Permit For Stormwater, Protection of Waters Permit

6. Federal
   a. USACOE – Jurisdictional Determination

7. Other Agencies
   a. WJWW – Water Distribution System

4.0 FINDINGS CONCERNING ENVIRONMENTAL IMPACTS

The DEIS and FEIS include an environmental evaluation of the following resource issues:

- Land Use, Zoning & Public Policy
- Visual Character
- Vegetation & Wildlife
- Wetlands & Hydrology
- Topography & Soils
- Stormwater Management & Subsurface Water
- Infrastructure & Utilities
- Traffic & Transportation
- Historic & Archaeological Resources
- Community Facilities
- Fiscal Analysis

4.1 LAND USE, ZONING & PUBLIC POLICY:

The subject Site is located at the eastern edge of the West Harrison section of the Town, in an area that is also known as Silver Lake. The predominant land use in this area consists of two-family residential neighborhoods surrounding the Silver Lake commercial hamlet. The Site is also adjacent to the Purchase Sector of the Town, which includes medium and low density, single-family

residential neighborhoods, and country clubs. The topography and configuration of the Site, establishes the importance of the parcel as a transitional property between these areas of the town. The Site forms the primary perceptual separation between these areas.

The Primary Land Use Study Area, which extends ½ mile around the Site, contains 502 acres, containing 10 separate land uses. The most prevalent land use is Very Low Density Residential, which accounts for 35% of the Study Area. Medium Density Residential accounts for the next largest land use at 20%, followed closely by Private Recreation Lands (i.e. country clubs) at 20%. Undeveloped Land accounts for 9.5% of the surrounding land use. There are no cluster subdivisions within the Study Area.

The Site is located within the R-1 - One Family Residence zoning district, which is the predominant zoning district in the Town of Harrison, and which permits the development of single-family residences on lots of 1 acre or more. The R-1 district is uniquely situated in this portion of the Town, where it extends in a narrow finger between the B – Two Family Residence District to the west and the R-1/2 One Family Residence District to the east (and further south between the R-75 and R-1/3 districts). This R-1 district encompasses the steep escarpment between the East Branch of the Mamaroneck River, and the Sherman Avenue paper street. It is clear that the establishment of the R-1 district along this escarpment, with its large minimum lot sizes (in comparison to the surrounding B, R-1/2, R-1/3 and R-75 districts) was done in recognition of the limited development potential and physical constraints of the steeply sloping terrain.

The B – Two Family Residence zoning district abuts the site to the west. The B district permits one and two-family residences on lots with a minimum area of 5,000 square feet. Abutting the Site to the east, across the East Branch of the Mamaroneck River is the R-1/2 One Family Residence zoning district. This district permits the development of single-family homes on lots with a minimum area of 1/2 acre. To the north of the site, the R 1/3 One Family Residence zoning district abuts the site. This district permits the development of single-family homes on lots with a minimum area of 1/3 acre.

The 14-lot conventional subdivision plan (13 lots plus a stormwater management lot), complies with all of the dimensional, area and bulk

requirements of the R-1 district. All of the 4 cluster alternatives reflect modifications of the applicable R-1 regulations to varying degrees, pursuant to the provisions of §235-10.1 and the provisions of §278 of Town Law. The stated purpose of cluster development, as set forth in §235-10.1, B. are as follows:

> *"The purpose of cluster development shall be to enable and encourage flexibility of design and development of land in such a manner that will result in:*
>
> *(1) The preservation of open lands that are physically, aesthetically, scenically, historically and environmentally unique by virtue of their geology, topography, vegetative cover or previous use.*
>
> *(2) A pattern of development that preserves trees, outstanding natural topography and geologic features and prevents soil erosion.*
>
> *(3) The preservation or creation of open space, recreation areas and environmentally sensitive land areas.*
>
> *(4) An environment that is in harmony with surrounding development.*
>
> *(5) A choice in the types of environment and living units available to the public, so that development will be a permanent asset to the Town.*
>
> *(6) An efficient use of land resulting in smaller networks of utilities and streets. A more desirable environment than would be possible through strict application of other sections of law."*

FINDING: The Planning Board finds that the land use in the area surrounding the Site is distinct and very well defined. The proposed development of the Site, as presented in the Preferred Plan, as well as under all of the alternative schemes fails to integrate the site into the existing land use pattern of either the B – Two Family Residence District to the west or the R-1/2 - One Family Residence District to the east. From a land use perspective, the proposed development of the Site does not create a transition between existing land uses, but rather creates a visually disruptive man-made barrier, where a natural buffer exists today. The east – west land use pattern from medium density single-family residential (R-1/2), to low-density single-family residential (R-1), to high density two-family residential (B), is highly irregular, and reinforces the incompatibility of the development of the Site with the existing developments surrounding the Site.

It is noted that the proposed development is inconsistent with several of the primary goals of the 1988 Master Plan Update, which is the governing land use document for the Town; specifically:

> *"Promote a balanced form of development that protects the tax base, while preserving the qualities of the community important to residents."*

During the course of the public hearings conducted for this project, numerous residents emphasized their displeasure with the proposed development because if fails to preserve the qualities of the community. Additionally:

> *"Respect environmentally sensitive areas in future development to reduce hazards to property and to preserve the scenic qualities of the community."*

The Town has worked to address the challenge of the development of environmentally sensitive areas through the adoption of laws and ordinances to protect and preserve these resources, such as the following chapters of the Town Code; Environmental Quality Review Chapter 126), Stormwater Management and Erosion & Sediment Control (Chapter 130), Excavation & Soil Removal (Chapter 133), Flood Damage and Protection (Chapter 146), Freshwater Wetlands (Chapter 149), Steep Slope Protection (Chapter 199) and Water Pollution (Chapter 230). The proposed project requires regulatory review under several of these ordinances. Given impacts such as disturbances to between 41% to 68% of the Site's steep slopes, and clearance of between 38% to 60% of the Site's vegetation (depending on the development alternative), it is clear that the project does not respect the Site's environmentally sensitive areas. Rather than reducing hazards, the proposed development of the Site will increase hazards dues to erosion, sedimentation and flooding. Finally, the clearance and development of the Site, at the top of the escarpment, where new buildings will extend up above the ridgeline, will result in significant visual impacts.

It is recognized that a cluster alternative would minimize site development impacts when compared to the conventional development proposal, nevertheless, the cluster alternatives do not fully satisfy the criteria of §235-10.1, B. Specifically, the Site uniformly exhibits the physical, aesthetic, topographic and environmental characteristics that make it unique. While

each of the cluster alternatives reduces development related impacts to varying degrees, collectively they all fail to *preserve* the physical attributes and character of the Site. As documented more fully in section 4.5 the development of the Site will irreparably adversely impact steep slopes and the natural topography of the Site, in direct opposition to the Town's Steep Slope ordinance. As such, impacts, such as erosion and sedimentation of the East Branch of the Mamaroneck River, which runs along the eastern perimeter of the Site, will be inevitable. Clustering does not eliminate this impact from occurring. Additionally, given the well-established land use patterns surrounding the Site, the proposed cluster alternatives would not be in harmony with surrounding development, but rather, would establish an inconsistent land use pattern, that would be significantly emphasized due to the highly visible location of the development near the ridge of the escarpment. The clearance of between 38% to almost 60% of the Site clearly fails to achieve the goal of preserving the Site's open lands. It can therefore be concluded that the proposed cluster alternatives fail to meet the stated objectives of the cluster subdivision provisions of the Town of Harrison.

The Lead Agency hereby finds that the proposed action, as well as the various alternative development plans, does not adequately mitigate the significant adverse zoning, land use and public policy impacts created by the project.

4.2 VISUAL CHARACTER

The 14.62-acre Site is wooded, and slopes downward from west to east, from a high point of approximately 330' along the Sherman Avenue paper street to a low point of approximately 188' along the East Branch of the Mamaroneck River. The Site is vegetated with 403 mature trees (12" dbh or greater). The East Branch of the Mamaroneck River forms the eastern boundary of the Site, and freshwater wetlands flank the River in this area.

The Site, along with the adjacent property owned by the School District, form a very unique, and visually distinctive narrow divide between the densely developed two-family homes of West Harrison above, and the lower density one-family neighborhoods in the Purchase area of the Town, located down below. The steep escarpment, which entirely encompasses the Site, physically and visually separates these two distinct areas.

Given the nature of the narrow abrupt topographic difference between these areas, it would be impossible to create a pattern of land use that gradually transitions between the two areas. The clearance of between 38% to almost 60% of the Site (depending on the development alternative considered) will deprive the Site of the existing vegetative cover that currently provides a rather pleasant natural wooded buffer. Replacing this natural vegetative buffer with new buildings, paved driveways, walkways and patios, retaining walls and other site development features will result in a dramatic and unacceptable disruption of the existing visual character of this area. Moreover, because the majority of proposed development is sited along Sherman Avenue, corresponding to the highest elevations of the Site, the adverse visual impact of the Project will reach well to the east, where a large number of single-family homes lie at significantly lower elevations.

FINDING: The Planning Board finds that the proposed project will result in a highly visible and visually inconsistent development that neither fits into the character of the B Two-Family zoning district to the west, or the R-1/2 – One Family zoning district to the east. The existing natural wooded buffer that exists along the steep escarpment will be substantially eliminated, resulting in an adverse visual impact that cannot be mitigated through modifications to the project.

4.3 VEGETATION & WILDLIFE

Vegetation:

As would be expected, the vegetation on the Site varies in quality. In the western portion of the Site along Sherman Avenue, where encroachments and disturbances have occurred along the rear of the existing residences, invasive species (such as Black Locust, Tree of Heaven, Japanese Maple, Japanese Barberry, Asiatic Bittersweet and Garlic Mustard) have taken hold. Throughout the center of the Site, invasive species are less prevalent, and native species such as Bitternut Hickory and Blue Cohosh are notable. The highest quality vegetation of the Site and the greatest species diversity exists in the lower elevations of the eastern portion of the Site, within the wetlands surrounding the East Branch of the Mamaroneck River. Common species in the area are Red Maple, American Beech and Spicebush. There are approximately 403 trees on the Site with a dbh of 12” or greater.

There are no federally designated threatened or endangered species on the Site, however, the New York State Natural Heritage Inventory revealed that two endangered plant species are located on the Site. Because this data is not made publicly available (to protect the species), the Applicant conducted site surveys in an attempt to locate these plants, but could not find any evidence of endangered plants. This field reconnaissance is inconclusive, and until de-listed by the NYSDEC, the presence of these species remains an established condition.

The proposed development will result in the clearance of between 38% to 60% of the Site's vegetation (depending on the development alternative), including areas of high quality native plants, and between 107 and 189 trees (between 26% - 47%).

Wildlife:

While the western portion of the Site's wildlife habitat has been somewhat degraded due to physical encroachments by neighbors and through the establishment of pioneering invasive species, the Site, along with the neighboring vacant undeveloped parcel owned by the School District, provide the only remaining large-scale, natural, wooded open space enclave in the area. The combination of wooded upland forest, wetland and riverine habitat provides nesting and foraging opportunities for local wildlife; including mammals, birds, amphibians and fish. It is acknowledged that no threatened or endangered wildlife species were observed on the Site. Nevertheless, the destruction of a substantial portion of this habitat for more common species will place additional stress on the ability of these species to sustain their populations and survive. This area is the last remaining parcel of natural wooded open space in the area. Wildlife forced off the Site to the development will likely seek refuge on the open space lands of the School District, which already sustains existing wildlife populations. The carrying capacity of these areas will be rapidly exceeded, resulting in the inevitable loss of wildlife. The opportunity for these species to relocate to another large tract of wooded open space simply does not exist. Species that would be expected to be impacted are those that are typical in northern Harrison; including:

- Virginia Opossum
- Short-tailed Shrew
- Eastern Cottontail
- Eastern Chipmunk

- Woodchuck
- Gray Squirrel
- Red Squirrel
- Southern Flying Squirrel
- White-Footed Mouse
- Meadow Vole
- Mink
- Red Fox
- Coyote
- Raccoon
- Striped Skunk
- White-Tailed Deer

As well as the 29 species or birds noted in the Bird Inventory included in the DEIS.

FINDING: The Planning Board finds that the proposed clearance of between 38% to 60% of the Site's vegetation (depending on the development alternative), including areas of high quality native plants, and between 107 and 189 trees (between 26% - 47%), and the corresponding destruction of wildlife habitat, potentially including 2 endangered species, will result in an irreparable and irreversible adverse impact.

4.4 WETLANDS & HYDROLOGY

The East Branch of the Mamaroneck River, as it passes the Site, is a small to medium sized creek with an average width across of approximately 10 feet and an average depth of approximately 3 feet. The bottom is composed of unconsolidated rocky material and the banks are approximately 3 feet high on average, and show signs of significant erosion. All development alternatives involve the construction of a bridge crossing from Dorado Drive, and in the Preferred Plan the construction of a detention basin, resulting in between 6,150 square feet and 11,182 square feet of disturbance.

The DEIS indicates that the Site supports a 1.64-acre palustrine forested freshwater wetland located along the East Branch of the Mamaroneck River, which forms the eastern boundary of the Site, and flows from north to south. In addition to the wetland itself, the Town of Harrison imposes a 100' wetland buffer regulated area that surrounds the wetland as well. Figure III-4-1 in the DEIS depicts the wetland in a green colored hatched pattern, which is

surrounded by a maroon colored pattern depicting the wetland buffer setback.

The wetland is dominated by mature vegetation including Red Maple and Sugar Maple in the canopy, by Spicebush in the intermediate layer and by Skunk Cabbage, False Hellebore, Red Trillium and Trout Lilly in the herbaceous layer. Soils within the wetland are hydric and include Charlton loam, 15-25% slopes, very stony and Leicester loam, 3-8% slopes, stony. This wetland is primarily sustained by a shallow groundwater table, discharging in seeps throughout the wetland. The Wetland Functional Assessment conducted by the Applicant indicates that the wetland is of high quality. The DEIS indicates that no direct wetland impacts are proposed, however wetland buffer impacts up to 14,065 square feet (depending upon the development scenario) will result from the installation of sewer utility infrastructure.

The FEIS included a property survey, prepared by Richard J. Domato Land Surveyor, dated May 19, 2010, which includes the survey located wetland boundary. This survey contradicts the wetland map included in the DEIS (Figure III-4-1) in that it shows the wetland running along the edge of the East Branch of the Mamaroneck River all the way to the Site's northern boundary. The wetland boundary depicted in Figure III-4-1 only extends roughly two-thirds of the way along the eastern portion of the Site, up to Oakmont Drive. In fact, the wetland extends along the entire length of the Site, past Dorado Drive. The Applicant makes no reference to this condition in the FEIS, and does not correct the inaccuracy presented in the DEIS. The revelation that the wetland extends along the entire length of the River is an extraordinary omission in the environmental record of the review of this project. This fact is extremely important, because as opposed to the previous position expressed in the DEIS that only up to 14,065 square feet (depending upon the development scenario) of wetland *buffer* disturbance would result from the development of the Site, in reality a disturbance to the wetland itself (and not simply the wetland buffer) will be required to construct the bridge from Dorado Drive. While not analyzed in the EIS, it has been the Planning Boards experience that wetlands flanking streams are of very high quality, and encroachments into these areas have rarely, if ever been approved.

Given the fact that the applicant disclosed the presence of the expanded wetland boundary in the survey included in the FEIS, yet failed to acknowledge it in the narrative, suggests that this information was purposefully withheld

from the Planning Board, or at a minimum in a light most favorable to the Applicant, egregiously omitted from the document.

FINDING: The Planning Board finds that the East Branch of the Mamaroneck River, and the corresponding wetland corridor represent the most ecologically diverse and significant portion of the Site. The Applicant has apparently intentionally failed to fully disclose the full extent of the on-site wetland, and the impacts the development of the Site would cause to those wetlands. The impacts and encroachments into the wetland buffer, and the wetland itself, are entirely preventable, as the Site can suitably be accessed from Sherman Avenue. The creation of a road or driveway off the end of Dorado Drive, and bridging the River will require not only the destruction of stream buffer, wetland and wetland buffer, but also the construction of new structures within the floodplain and floodway, resulting in an increased flood hazard. This is a particular concern given the documented the chronic flooding problems in the area that have resulted in damage to surrounding properties and structures. These impacts result from the Applicant's desire to maximize the development of the Site. A suitable and satisfactory alternative exists that would eliminate these potentially significant adverse impacts.

4.5 TOPOGRAPHY & SOILS

The most predominant soil type on the Site is Hollis-rock outcrop complex very steep, which underlies approximately 75% of the Site. A small area of Charlton loam 15-25% slope, very stony is present at the southwest corner of the Site off Sherman Avenue, as well as along the western edge of the wetland and stream corridor. The three remaining soil types are located within the River and wetland (Charlton loam, 2-8% slope very stony; Leicester loam, 3-8% slope stony and Leicester loam, 0-3% slope stony). According to the USDA SCS Soil Survey, of the five soil types identified on the site, four exhibit "severe" site development limitations.

The Site's topography is its most defining feature. The Site is a steep escarpment that rises in elevation from a low point of approximately elevation 188' located along the East Branch of the Mamaroneck River in the southeast corner of the Site, to a high point of approximately 328' near the intersection of Sherman Avenue and Livingston Street. This rise in elevation of 140' occurs over an average distance of only about 225'. The Site's defining steep

topography has been poignantly emphasized through historical records, and the recollections of long time residents and the Town Historian who describe an "internationally known ski jump" that was located on or near the Site, which was part of a resort development in the late 19th century.

The Town of Harrison Steep Slope Protection Law (Chapter 199) defines slopes by their grade. Slopes between 15% – 25% are defined as "Steep", between 25% - 35% as "Very Steep" and those slopes over 35% are defined as "Excessively Steep." 4.07 acres or 23% of the Site exhibits slopes below 15% and as such are not regulated by the Steep Slope Protection Law. 3.13 acres or 17.7% of the Site exhibits Steep Slopes, 4.36 acres or 24.7% of the Site exhibits Very Steep Slopes, and 6.12 acres or 34.6% of the Site exhibits Excessively Steep Slopes.[1] Nearly 80% of the project area falls within the regulated area of the Steep Slopes Protection Law.

The legislative intent of the Steep Slope Protection Law is as follows:

> *"For the purpose of preventing erosion and sedimentation, including loss of topsoil, preventing habitat disturbance, water quality degradation, slope failure and flooding; minimizing stormwater runoff and flooding; providing stable and safe building sites; preventing landslides and soil instability; protecting the quantity and quality of the Town's surface and groundwater resources; protecting important scenic views and vistas; preserving prominent land forms of scenic and ecological value; preserving rock outcrops and trees, areas of vegetation and wildlife habitat; encouraging flexible design and minimizing the area of land disturbance related to site development and, when disturbance is necessary, ensuring environmentally sound disturbance; and ensuring and protecting the Town's character and property values, it is the intent of this chapter to minimize disturbance on steep slopes and very steep slopes and to avoid disturbance and construction activities on excessive slopes. Further, it is the intent of this chapter to minimize the development of hilltops and ridgelines wherever possible. It is the intent of this chapter to ensure preservation wherever possible and careful review and regulation, including stringent mitigation measures, of disturbance of soil and vegetation on steep slopes where they have been disturbed. The proponent of any activity proposed for hilltops, ridgelines, or steep slopes shall demonstrate that the impacts on the functions and essential characteristics of such areas can be effectively minimized."*

The following review standards are established in §199-6 C (presented in italics), followed by the Planning Board's finding:

[1] Included in these figures is approximately 3.06 acres of land located outside of the Site, including the Sherman Avenue right-of-way and adjacent property where grading is proposed to accommodate the Project.

(1) *"The planning, design and development of buildings minimize flooding and provide the maximum in structural safety, slope stability, and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain and aesthetic character."*

The design, layout and configuration of the Project does not reflect a sensitivity to the Site's environmental features. The proposed development proposes a structural crossing of the East Branch of the Mamaroneck River requiring construction within the wetland, stream corridor and floodplain, requires the construction of retaining walls to create usable building lots, and proposes new buildings situated at the highest elevations of the Site, where their aesthetic impact will be most significant. Importantly, this is the most significantly constrained site ever reviewed by the Planning Board with specific regard to the presence of steep slopes. The proposed development schemes advanced by the Applicant make no effort to avoid disturbances to regulated steep slopes. Up to half of the Site's excessively steep slopes would be disturbed to accommodate the Project, with proportionally high percentages of very steep and steep slopes. This standard is not complied with.

(2) *"The terracing of building sites is kept to a minimum."*

In order to accommodate the development as proposed, extensive retaining walls will be required to allow the Project to be set into the slope. These retaining walls, which will vary in height, will need to be terraced, in order to accommodate reasonable grade transitions. Otherwise, very tall retaining walls will be necessary, which are prone to failure, and create adverse visual and aesthetic impacts.

(3) *"Roads and driveways follow the natural topography to the greatest extent possible in order to minimize the potential for erosion, and they are consistent with other applicable regulations of the Town of Harrison and current engineering practices."*

The proposal calls for extending Sherman Avenue to provide road frontage for the new building lots. Sherman Avenue is a paper street that has not been improved due to the areas extreme topographic conditions. Numerous building lots have existed on the west side of Sherman Avenue for decades,

and have never been developed due specifically to the limitations of the areas the topography. Thus, extending Sherman Avenue (which would exceed the Town standard for the length of a cul-de-sac in the Preferred Plan) is inconsistent with the Towns standards and practices. The new parcels created off Sherman Avenue, and their accessory driveways, would extend out into areas of excessively steep slopes, requiring extensive grading, excavations, and the construction of retaining walls to create usable lots. This standard is not complied with.

(4) *"Habitat is quantified and protected, no endangered species of flora of fauna are adversely impacted and any replanting shall be maintained by the applicant for two years and shall consist of indigenous vegetation that at a minimum replicates the original vegetation on the site, in kind."*

The New York State DEC Natural Heritage Inventory indicated that two endangered species are present on the Site, although the Applicant was unable to locate them. The proposed removal of 38% to 60% of the Site's vegetation (depending on the development alternative), including areas of high quality native plants, and between 107 and 189 trees (between 26% - 47%), and the corresponding destruction of wildlife habitat will result in an irreparable and irreversible adverse impact, which may also involve the destruction of endangered species. The proposed development clearly does not meet the "protection" goal established in this standard.

(5) *"The natural elevations and vegetative cover of ridgelines are disturbed only if the crest of a ridge and the tree line at the ridge remain uninterrupted. This will be accomplished either by positioning buildings and areas of disturbance below a ridgeline or by positioning buildings and areas of disturbance at a ridgeline so that the elevation of the roof line of the building is no greater than the elevation of the natural tree line, so long as no more than 100 feet along the ridgeline, to a width of 100 feet generally centered on the ridgeline, is disturbed."*

The ridgeline traverses elevations 328' to 398', which generally follows Woodside and Park Avenues. At its closest, the ridgeline is approximately 153' from the western boundary of the Site. While the Site does not encroach into the spatial boundary of the ridgeline, the proposed new structures built along Sherman Avenue would extend up to elevation 340',

which is above the southern portion of the ridgeline, the natural tree line, and collectively would exceed 100' in width along the ridgeline. The visual impact and disturbance of new buildings piercing the ridgeline represents an unacceptable adverse impact, which explicitly fails to meet the goal of this standard. Given the extremely visible location of the Site, particularly to the residential neighborhoods lying below the Site to the east, this represents a very significant adverse impact.

(6) *"Any regrading blends in with the natural contours and undulations of the land."*

The Project calls for extensive regrading, ranging from 27,358 cubic yards of cut and 40,330 cubic yards of fill for the Preferred Plan to 7,812 cubic yards of cut and 30,366 cubic yards of fill for Alternative 6. Virtually none of this regrading will blend into the natural contours and undulations of the land, due to the extremely steep topography of the area. Development plans rely on extensive retaining walls to accommodate the project. This standard is not complied with.

(7) *"Cuts and fills are rounded off to eliminate sharp angles at the top, bottom, and sides of regraded slopes."*

The Site's very steep topography does not lend itself to the creation of gradually graded cuts and fills. Rather most cuts and fills and stabilized through the construction of retaining walls. This standard is not complied with.

(8) *"The angle of cut and fill slopes does not exceed a slope of one vertical to two horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Town Inspector are used."*

As previously noted, the construction of retaining walls is prevalent.

(9) *"Tops and bottoms of cut and fill slopes are set back from structures an adequate distance to ensure the safety of the structures in the event of the collapse of the cut or fill slopes. Generally, such distance is six feet plus 1/2 the height of the cut or fill."*

The Planning Board has not yet conducted this level of detailed review.

(10) *"Disturbance of rock outcrops is by means of explosive only if labor and machines are not effective and only if rock blasting is conducted in accordance with all applicable regulations of the Town of Harrison and the State of New York. The rock shall be effectively stabilized."*

Other than identifying the type of rock underlying the Site based on a review of the USGS Bedrock Geologic Map of New York, The EIS does not accurately identify the presence of rock on the Site, nor the depth to bedrock. Based upon the Planning Board's visual observations, and knowledge of the subsurface conditions in the area, shallow bedrock is very likely present on the Site. The Applicant has indicated that blasting would be utilized only if mechanical rock removal methods are infeasible. Given the steep topography, rock removal via either mechanical means or blasting will carry with them additional hazards and risks. The scale of these hazards and risks, based on the various development schemes, is unacceptable.

(11) *"Disturbance of slopes is undertaken in workable units in which the disturbance can be completed and stabilized in one construction season so that areas are not left bare and exposed during the period from December 15 through April 15."*

The Applicant has submitted a development phasing plan that would comply with this standard.

(12) *"Disturbance of existing vegetative ground cover does not take place more than 15 days prior to grading and construction."*

Typically, tree removal activities are not conducted in phases, while grading often is undertaken to correspond to construction schedules.

(13) *"Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, is applied to an area of disturbance within two days of establishing the final grade, and permanent stabilization is applied within 15 days of establishing the final grade."*

This would be established as a condition associated with the erosion & sedimentation control plan.

(14) *"Soil stabilization is applied within two days of disturbance if the final grade is not expected to be established within 60 days."*

This would be established as a condition associated with the erosion & sedimentation control plan.

(15) *"Measures for the control of erosion and sedimentation are undertaken consistent with the Westchester County Soil and Water Conservation District's "Best Management Practices Manual for Erosion and Sediment Control," and New York State Department of Environmental Conservation "Guidelines for Urban Erosion and Sediment Control," as amended, or its equivalent satisfactory to the Planning Board."*

This would be imposed as a condition of approval.

(16) *"All proposed disturbance of slopes is undertaken with consideration of the soils limitations characteristics contained in the latest Identification Legend, Westchester County Soils Survey, as prepared by the Westchester County Soil and Water Conservation District, in terms of recognition of limitation of soils on slopes for development and application of all mitigating measures, and as deemed necessary by the Town Engineer."*

According to the USDA SCS Soil Survey, of the five soil types identified on the site, four exhibit "Severe" site development limitations across all six "Building Site Development" categories (i.e. shallow excavations, dwellings with and without basements, small commercial buildings, local roads and streets and lawns and landscaping). *All* of the proposed Site improvements are located within areas with "severe" site development limitations. The limitations are considered *slight* if soil properties and site features are generally favorable for the indicated use and limitations are minor and easily overcome; *moderate* if soil properties or site features are not favorable for the indicated use and special planning, design or maintenance is needed to overcome or minimize the limitations; and *severe* if soil properties or site features are so unfavorable or so difficult to overcome that special design,

project modifications, significant increases in construction costs, and possibly increased maintenance are required. This standard reinforces the unsuitability of the proposed development.

(17) "Topsoil is removed from all areas of disturbance, stockpiled and stabilized in a manner to minimize erosion and sedimentation, and replaced elsewhere on the site at the time of final grading."

The EIS indicates that the Applicant has elected not to stockpile excavated material on site. It is unlikely that stockpiling would be possible without significant additional disturbances.

(18)"Topsoil stockpiling is not permitted or slopes of greater than 10%."

Stockpiling is not proposed.

(19) "Fill material is no less granular than the soil upon which it is placed, and no organic material or rock with a size that will not allow appropriate compaction or cover by topsoil can be used as fill material."

This would be established as a condition of approval.

(20) "Compaction of fill materials in fill areas is such to ensure support of proposed structures and stabilization for intended uses."

This a particular concern because between 18,821 cubic yards and 40,339 cubic yards of fill is required to accommodate this project. The placement of fill on excessively steep slopes represents an engineering challenge, which should be avoided to minimize threats of slope failure and subsidence. No analysis was provided by the Applicant to document that this engineering challenge can be overcome.

(21) "Structures are designed to fit into the hillside rather than altering the hillside to fit the structure, employing methods such as reduced footprint design, step down structures, stilt houses, and minimization of grading outside the building footprint."

The proposed homes front on Sherman Avenue, and require the

construction of extensive retaining walls to create usable yards. From the east, the homes will present a 3 ½ story elevation, combined with extensive retaining walls, or upwards of 50' of vertical visual development impact. Such a condition does not "fit into the hillside" and is inconsistent with this standard.

(22) "Development is sited on that portion of the site least likely to impact the natural landforms, geological features, and vegetation."

The main portion of the proposed development is located in areas of excessively sloped land, on severly-constrained soils, that will visually disrupt the adjacent ridgeline, requiring the removal of between 38% to 60% of the Site's vegetation (depending on the development alternative), including areas of high quality native plants, and between 107 and 189 trees (between 26% - 47%), and the corresponding destruction of wildlife habitat. The proposed development is wholly inconsistent with this standard.

(23)"The applicant has provided landscaping plans for after development."

Conceptual landscaping plans have been submitted.

(24) "*The development conforms with the requirements set forth in the Town of Harrison Zoning Ordinance."*

The proposed lots in the Preferred Plan comply with the bulk and area requirements of the R-1-One Family zoning district. This plan however, exceeds the maximum cul-de-sac length provision. Cluster alternatives vary from these standards.

(24)"The construction equipment has adequate access as not to disturb anything outside the approved construction envelope."

Construction access is limited to Sherman Avenue, and the construction staging area is proposed within the right-of-way. The Town would not permit a private construction staging area within a public right-of-way. Staging within the Site will undoubtedly result in new adverse impacts beyond the currently defined area of disturbance. Issues such as

construction worker parking, equipment and material storage and construction staging represents serious concerns, and no viable mitigation is apparent that would not result in additional adverse impacts.

(25) "At the discretion of the Town Engineer, a construction safety plan may be required."

A construction management plan and site development protocol is typically required to be submitted with the Building Permit, as a condition of approval.

These standards form the basis of reviewing a steep slope permit. As noted, the plan fails to meet the objectives of many of these standards, in significant ways. The following findings must be made in order to issue a steep slope permit. The proposed activity:

(1) "Is in accordance with the legislative findings of this chapter."

The proposed action, including the alternative development scenarios will increase the potential for erosion and sedimentation due to extensive excavations on steep, very steep and excessively steep slopes, will involve the loss of topsoil associated with the removal of between 7,812 cubic yards and 27,358 cubic yards of cut, will result in the elimination of between 38% to 60% of the Site's vegetation (depending on the development alternative), including areas of high quality native plants, and between 107 and 189 trees (between 26% - 47%), and the corresponding destruction of wildlife habitat which supports two endangered species identified on the NYS DEC Natural Heritage Inventory, will increase the potential for water quality degradation and will dramatically increase the risk of slope failure. New impervious surfaces will increase stormwater runoff and the construction of the bridge over the East Branch of the Mamaroneck River within the floodplain will affect flooding, and will adversely impact a wetland, which the Applicant failed to disclose in the EIS. The Project will result in the provision of particularly poor stable and safe building sites, will increase landslide hazards both during and after construction, will affect the stability of soils that have been identified by the USDA SCS as "severely" constrained, will impact existing important scenic views and vistas,

significantly impact a prominent land form (the escarpment) resulting in adverse impacts to environmentally sensitive areas thereby affecting the Town's character and property values. The project fails to minimize disturbance on steep slopes and very steep slopes and to avoid disturbance and construction activities on excessively slopes. Virtually all of the required construction related activities occur within areas of excessively steep slopes. The development of the Site will also impact the visual integrity of the adjacent ridgeline. The development of the Site as proposed by the Applicant is entirely inconsistent with the legislative intent of the Town's Steep Slope Protection Law.

(2) *"Is consistent with the provisions of the Zoning Ordinance."*

The proposed lots in the Preferred Plan comply with the bulk and area requirements of the R-1- One Family zoning district. This plan however, exceeds the maximum cul-de-sac length provision. Cluster alternatives vary from these standards.

(3) "*Will not result in creep, sudden slope failure, rock failure or additional erosion."*

Given the extent of impacts to the Site's steep, very steep and excessively steep slopes, which are all underlain by soils that are classified as having "severe" development constraints, it is impossible to eliminate the potential for creep, sudden slope failure or additional erosion as a result of the development of the Site.

(4) *"Has no reasonably feasible on-site alternative, after consideration of reduction in density, change in use, revision of road or lot layout, revision in the location of buildings, structures, driveways, other site construction or land-altering activities or related site planning considerations that could otherwise reasonably accomplish the applicant's objectives."*

The extensive presence of environmental constraints on the Site, including steep slopes, poor quality soils, wetlands, floodplains, the River and wildlife habitat that is the last remaining enclave of natural wooded open space in the area, within which 2 endangered species have been identified, make the creation of an acceptable development alternative

difficult. The Applicant has explored 6 alternatives, all of which result in significant adverse impacts to varying degrees.

(5) *"Has no reasonably feasible alternative on another site or site location that is not affected by a slope."*

It is unknown if the Applicant is able to accommodate the level of development anticipated on this Site, on another site or location, not affected by a slope.

(6) *"Will preserve and protect existing wetlands, watercourses, and adjacent areas, as defined in Chapter 149."*

The EIS made the inaccurate claim that the development of the Site would not result in any wetland impacts, and would disturb only up to 14,065 square feet (depending upon the development scenario) of wetland *buffer.*

In fact, a survey submitted with the FEIS indicates that the on-site wetland actually runs along the entire edge of the East Branch of the Mamaroneck River all the way to the Site's northern boundary, and not only about two-thirds of the way up to Oakmont Drive as claimed in the DEIS. The Applicant makes no reference to this condition in the FEIS, and does not correct the inaccuracy presented in the DEIS. The revelation that the wetland extends along the entire length of the River is an extraordinary omission in the environmental record of the review of this project. This fact is extremely important, because as opposed to the previous position expressed in the DEIS that only a portion of the wetland *buffer* was being disturbed, in reality a disturbance to the wetland itself (and not simply the wetland buffer) will be required to construct the bridge from Dorado Drive. While not analyzed in the EIS, it has been the Planning Boards experience that wetlands flanking streams are of very high quality, and encroachments into these areas have rarely, if ever been approved.

(7) *"Will not adversely affect existing or proposed wells or sewage disposal systems."*

The proposed development would be serviced by connections to the municipal sewer and water networks. No impacts to existing wells or

sewage disposal systems is anticipated.

(8) *"Is the best alternative, after consideration of an area not presently owned by the applicant that could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity, if it is otherwise a practicable alternative."*

The Site's environmental constraints existed when the Applicant purchased the property, as did the Town's obligation under SEQRA to take a "hard look" at the potential environmental impacts of the proposed subdivision. Any reasonable expectation of the development potential of the Site should have reflected the limitations created by the Site's environmental constraints. It should be noted that numerous existing vacant undeveloped lots exist along Sherman Avenue and many of the cross streets, which might offer development potential, without the necessity to subdivide the parcels.

(9) *"Will not adversely affect any endangered species of flora or fauna."*

New York State Natural Heritage Inventory revealed that two endangered plant species are located on the Site. Because this data is not made publicly available (to protect the species), the Applicant conducted site surveys in an attempt to locate these plants, but could not find any evidence of endangered plants. This field reconnaissance is inconclusive, and until de-listed by the NYSDEC, the presence of these species remains an established condition. Because the location of these plants has not been documented, it cannot be established that the proposed elimination of between 38% to 60% of the Site's vegetation (depending on the development alternative), including areas of high quality native plants, and between 107 and 189 trees (between 26% - 47%), would not result in the destruction of an endangered species.

(10) *"Is compatible with the public health and welfare."*

As documented throughout these Findings, the proposed development of the Site would result in numerous inconsistent violations of the Town's land development policies, goals and standards. Such a condition is incompatible with the public health and welfare.

(11) Will not allow for work to be done in anticipation of construction, including excavation and tree removal.

The Applicant has not undertaken any work on the Site.

FINDING: The Planning Board finds that the design, layout and configuration of the Project does not reflect a sensitivity to the Site's extremely constrained soil and topographic features. According to the USDA SCS Soil Survey, of the five soil types identified on the site, four exhibit "Severe" site development limitations. All of the proposed Site improvements are located within areas with "severe" site development limitations. Up to half of the Site's excessively steep slopes would be disturbed to accommodate the Project, with proportionally high percentages of impacts to very steep and steep slopes. The Project calls for extensive regrading, ranging from 27,358 cubic yards of cut and 40,330 cubic yards of fill for the Preferred Plan to 7,812 cubic yards of cut and 30,366 cubic yards of fill for Alternative 6. Virtually none of this regrading will blend into the natural contours and undulations of the land, due to the extremely steep topography of the area. Development plans rely on extensive retaining walls to accommodate the project. Construction and development activities in areas of steep slopes has the potential to cause landslides, slope failure and affect the stability of soils. Because the building platforms will have to be graded into the top of the Site, supported by extensive retaining walls, the buildings will have a disproportionate vertical aspect, and will extend over a dozen feet above the nearby ridgeline, resulting in significant adverse visual impacts. The Planning Board finds that proposed development will result in significant adverse impacts to the Site's soils and topography.

4.6 STORMWATER MANAGEMENT & SUBSURFACE WATER

The Site is located within the Mamaroneck River Drainage Basin, which ultimately drains to the Long Island Sound. Currently stormwater flows across the Site overland and via shallow concentrated flows from west to east, toward the East Branch of the Mamaroneck River. Additionally, a municipal storm sewer located in Sherman Avenue discharges runoff from the up-gradient road system, across the Site. There are four drainage subareas associated with the Site, and the total contributory drainage area is approximately 771 acres in size.

A portion of the Site along the River lies within a flood zone. The proposed bridge crossing of the River is located in this area.

Field tests and geotechnical data indicates that the water table on the Site varies from 2' below the surface in the eastern portion of the Site within the wetlands, to approximately 8' below the surface in the area of the proposed development.

The development of the Site will result in disturbances of between 5.5 acres and 8.6 acres, and the construction of new impervious surfaces of between 2.47 to 2.5 acres. Stormwater management plans prepared for the development call for capturing and treating stormwater runoff from all impervious surfaces on the Site. Stormwater runoff from the roadway would be collected through a series of catch basins and underground pipes and discharged into a stormwater basin located a the northern end of the Site. The stormwater management system has been designed to accommodate the 25-year storm event.

The physical characteristics of the Site are such that the development and long-term maintenance of an adequate stormwater management system will prove to be extremely challenging. The obligation to design a system that meets the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02; to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01; The New York State Stormwater Management Design Manual and the Enhanced Phosphorus Removal Supplement, and the New York Standards and Specifications for Erosion and Sediment Control, does not necessarily recognize the extent of excessively steep slope impacts of severely constrained soils.

FINDING: The Planning Board finds that the very steep and excessively steep topography of the Site and the "severely" constrained soil properties makes compliance with the applicable stormwater management and erosion control regulations very difficult to achieve. The extraordinary design, construction and maintenance measures necessary to assure the success of the proposed stormwater management system, have not been documented by the Applicant. Therefore, no assurance exists that the system can operate without creating impacts such as increases of pollution, siltation,

increases in stream temperature, stream bank erosion, or the preservation of the integrity of the stream channel of the East Branch of the Mamaroneck River. Additionally, no documentation has been provided addressing the potential increase in nonpoint source pollution.

4.7 INFRASTRUCTURE & UTILITIES

Water:

The Westchester Joint Water Works (WJWW) provides and maintains the public supply of water in the vicinity of the Site. a 12" transmission line runs from the Woodside water tank, in an east-west direction, through the Site and crosses the East Branch of the Mamaroneck River, where it then follows Oakmont Drive. A 6" line branches off this transmission line and runs in a north – south direct along Woodside Avenue to the west of the Site. The homes in the eastern portion of West Harrison have long complained of water pressure problems, and the WJWW has confirmed this low-pressure condition.

The domestic water demand for the proposed development of the Site would range from 7,800 gpd for the Preferred Plan to 5,400 gpd for Alternative 6. Lawn and landscaping irrigation would add approximately another 10,608 gpd of water demand during the peak summer months. Furthermore, the water distribution system for the project must also account for fire fighting through the provision of fire hydrants.

The EIS claims that the additional demand for water to meet the domestic needs of the new residents, the irrigation demands of the new site landscaping as well as the water demand through fire hydrants to meet the emergency fire fighting needs of the area, can be accommodated by the existing water supply network. No imperial data was provided (such as flow test results) to confirm this conclusion. The only evidence the Lead Agency has regarding the adequacy of water pressure in the area is that of the WJWW that has indicated that low water pressure is in fact a problem in the area. The Applicant has not offered any mitigation to address this issue.

Sewage:

An existing municipal sewer line runs along the right-of-way of Jefferson Street, through the Site by gravity (within an existing sewer easement), where it connects to the Westchester County Sewer Trunk line that runs along the bed

of the East Branch of the Mamaroneck River, and ultimately to the Mamaroneck Wastewater Treatment Plant. The proposed development would tie into this municipal sewage system.

The development of the Site would include the installation of new sanitary sewers, both within the Sherman Avenue right-of-way, as well as behind the proposed dwellings. Both of these collection mains would flow to the north, where they would connect into the existing sanitary sewer line that flows east to the County Trunk line. The development of the Site is projected to generate between 7,800 gpd of sanitary sewage for the Preferred Plan to 5,400 gpd for Alternative 6. It has been determined that the existing municipal sewage system could support this level of additional sewage flow.

FINDING: the Planning Board finds that while the Applicant has acceptably documented that sanitary sewage generated by the development of the Site can be adequately accommodated, the Applicant has not adequately demonstrated that the proposed increase in water demand, which ranges from 5,400 gpd to 7,800 gpd, plus approximately another 10,608 gpd of water demand during the peak summer months for irrigation, as well as the additional fire fighting requirement of adequate water pressure in the fire hydrant system, can be achieved in an area with documented water pressure deficiencies. This represents a significant development limitation, and a public safety concern.

4.8 TRAFFIC & TRANSPORTATION

The development of the Site requires the extension of Sherman Avenue, which currently only extends approximately 200' to the north of the Madison Street intersection. Sherman Avenue would be extended to provide frontage and access to the project, and would also provide frontage and access to the existing lots not owned by the Applicant located on the west side of the Sherman Avenue paper street right-of-way, situated in the B-Two Family zoning district.

Under the Preferred Plan a secondary emergency access driveway is proposed from Dorado Drive, which would bridge the East Branch of the Mamaroneck River and connect to the cul-de-sac terminus of Sherman Avenue. Under Alternatives 5 & 6 a full service (not emergency access) driveway is proposed to connect to Dorado Drive, which would similarly bridge the River in approximately the same location.

The development of the Site is projected to generate between 17 AM peak hour and 19 PM peak hour vehicle trips for the Preferred Plan, which would all be directed to Sherman Avenue; to between 11 AM peak hour trips and 12 PM peak hours trips to Sherman Avenue, and 2 peak hours trips to Dorado Drive for Alternative 6.

This additional volume of traffic will not result in any degradation in intersection levels-of-service surrounding the Site, which currently operate at LOS A or B.

Traffic volumes and the levels of service at the intersections surrounding the Site do not adequately define traffic operating conditions in the area. The grades of the surrounding roadways, intersection and driveway sight distances, areas of inadequate street lighting and the number of reported and unreported accidents provide a better picture of the traffic conditions in the vicinity of the Site. These factors combine to produce a condition that is problematic. For example, of the 16 reported accidents identified by the Harrison Police Department, roadway conditions were noted as the factor causing the accident in several instances. The fact that many of the cross streets intersecting the north south avenues (such as Livingston Street, Grant Avenue, Hancock Street and Madison Street) are very steep, often exceeding Town standards, creates intersection operating conditions that are defined by issues of safety – not traffic volume. While comparatively modest, the additional volumes of traffic generated by the Project would further exacerbate this condition.

The DEIS notes that pedestrian activity in the vicinity of the Site was noted to be minimal. It was concluded that this was "due to the gradient of the existing roads…". Creating a new residential enclave that is functionally dependent upon individual passenger vehicle trips and forecloses pedestrian activity runs counter to sound rational smart growth planning. It has been a longstanding policy of the Planning Board to facilitate pedestrian connections wherever possible.

Public transit is not convenient option for the residents of this Site. The nearest County Bee Line bus stop is approximately ½ mile from the Site, over the challenging and pedestrian un-friendly topography noted in the EIS.

FINDING: The Planning Board finds that the proposed development will result in the generation of traffic that, while not degrading existing surrounding intersection levels-of-service, would have a potential adverse impact of the efficient and safe operation of the surrounding roadway network. While the existing roadway network currently serves the surrounding community, factors such as roadway and driveway grades that exceed Town standards, substandard sight distances, the number of reported and unreported vehicle accidents, areas of inadequate street lighting, combine to create a condition that is problematic. This condition would only be exacerbated by the proposed development. Furthermore alternatives to the use of private vehicles, such as walking or the use of public transportation are not realistically viable. The Applicant has offered no measures to mitigate any of these concerns.

4.9 HISTORIC & ARCHAEOLOGICAL RESOURCES

The Phase IA Historic and Archaeological survey conducted as part of the EIS revealed that no historic or archaeological resources exist on of in the immediate vicinity of the Site.

FINDING: The Planning Board finds that the proposed development of the Site would not result in a significant adverse impacts to historic or archaeological resources.

4.10 COMMUNITY FACILITIES

Police:

The subject Site lies within the jurisdiction of the Harrison Police Department. According to the Police Department, the development of the Site as proposed would result in only a minor demand on police services, and would not disrupt regular operations.

Fire Department:

The Site is located within the West Harrison Fire District #1, and is served by the West Harrison Fire Department. According to the Fire Marshall, the average response time to the Site would be three to four minutes. Water pressure deficiencies in the vicinity of the Site may result in fire fighting problems and limitations. Additionally, the Site's steep topography may limit Fire Department apparatus access to the rear of the proposed residences.

Emergency Medical Services:

The Harrison Volunteer Ambulance Corps (HVAC) provides Basic Life Support and Advanced Life Support services for the entire Town. The HVAC facility is located on Pleasant Ridge Road, approximately 5 miles from the Site, and the response time is approximately 10 minutes. The Chief of the HVAC does not anticipate that the proposed development of the Site would result in an adverse demand on emergency medical services.

Schools:

The Site is located within the Harrison Central School District. Public school students generated by the project would attend the Samuel J. Preston Elementary School, the Louise M. Klein Middle School and the Harrison High School (grades K – 12). It is projected that the development of the Site would generate between 8 to 11 school aged children (depending upon the development scenario) and that between 7 to 9 would attend the Harrison public schools, the rest would attend private or parochial schools.

Recreation:

Residents of this development would be eligible to utilize the Harrison Recreation Department's parks and programs. Commonly accepted national standards establish that 10 acres of active parkland should be provided for every 1,000 in population. Harrison's 2010 population was recorded as 27,472 in the US Census. Applying the above referenced formula, active parkland of 274 acres is required. The Town owns and operates 81.8 acres of active public parks and Westchester County owns and operates another 132 acres, for a total of 214 acres, which does not meet the established national standard. The development of the Site, and the inclusion of the additional population would worsen this deficiency. As required in §204-32B, subdivisions are required to set aside 10% of the land for a park site, or in the alternative provide a payment-in-lieu of parkland. The Applicant made no provision to comply with either of these provisions, which would help to mitigate the deficiency noted above.

Public Works:

The Town of Harrison Department of Public Works would be responsible for sanitation, street and lighting maintenance. It is anticipated that the development of the Site would result in the generation of approximately 5 tons

of household waste and recyclables per month. The DPW would be able to accommodate this volume of refuse, and would be capable of undertaking the necessary roadway maintenance of the extension of Sherman Road, if constructed in accordance with Town standards.

FINDING: The Planning Board finds that the proposed development of the Site would not result in any significant adverse impacts to police services, emergency medical services, schools or public works. However, the project may result in adverse impacts regarding the ability to adequate fight fires, due to low water pressure in the vicinity of the Site. Additionally, the Project will result in an adverse impact on the Town's recreational resources, as the increase in population resulting from the Project will worsen the overcrowded state of the Town's recreational resources, and documented by the current non-compliance with nationally accepted recreation standards, and the Project made no provision for compliance with the park requirement set forth in §204-32B .

4.11 FISCAL ANALYSIS

It is projected that the proposed development of the Site would result in the generation of between $426,050 in annual taxes for the Preferred Plan to $294,957 in annual taxes for Alternative 6. The cost of providing municipal services would be relatively modest in comparison.

FINDING: The development of the Site is not anticipated to result in an adverse fiscal impact.

4.12 CONSTRUCTION

The DEIS documents a two-phased construction schedule. The first phase, which is projected to take approximately 30 weeks, would involve the construction of the extension of Sherman Avenue, the stormwater management system and associated infrastructural improvements. The second phase would involve the construction of the individual homes. The timing of this phase is dependent upon market conditions, but is estimated to take 48 weeks.

Construction traffic will travel to the Site, and access the property from Sherman Avenue on the southwest, and from Dorado Drive from the northeast. While construction traffic will not affect traffic volumes, for the reasons documented in the traffic section of these Findings (4.8) adding construction

vehicles and large trucks to the roadway network surrounding the Site represents yet another obstacle to the safe and efficient operation of the surrounding roadway network.

The DEIS indicates that construction staging would occur within the Sherman Avenue right-of-way. Due to obvious liability concerns, it is unlikely that the Town would allow private construction staging areas to be located within the right-of-way of a public street. More practically, if the Sherman Avenue right-of-way were rough graded for this project, it would create numerous opportunities for existing lots on the west site of Sherman Avenue to be developed. If the right-of-way were blocked by the staging operations of this project, it would impede the other property owners from accessing (and improving) their lots. Given the extensive site constrains of the project Site, establishing a separate staging area within the Site, without creating additional (unnecessary) environmental impacts appears impossible. Reliance on precise logistics regarding the delivery of construction materials, on an as needed basis, is unrealistic.

It is anticipated that construction noise will result in short term impacts. However, through the reliance on modern, industry standard construction management practices, which would be developed in accordance with the Town's noise ordinance (Chapter 177), these short term impacts are likely to be occasionally bothersome, but would not rise to the level of a significant adverse impact.

It is also anticipated that the development of the Site will result in increases in vehicle emissions and fugitive dust. These impacts would be mitigated, to the extent possible, through the imposition of a construction management plan and site development protocol, which would impose a host of controls on these impacts. It is not anticipated that the development of this site would result in unusual impacts in this regard.

FINDING: The Planning Board finds that construction traffic to and from the Site presents yet another obstacle to the safe and efficient operation of the surrounding roadway network. No mitigation measures (such as restricting large truck deliveries to non-peak traffic periods, or requiring traffic control and safety measure, such as relying on the use of flagmen) was offered by the Applicant. Additionally, the construction staging plan

calls for the use of the Sherman Avenue right-of-way. The use of a public right-of-way for the staging area of an adjacent private development is an unacceptable option, which the Town would not approve. Establishing an acceptable construction staging area on the Site itself, without creating additional adverse environmental impacts (beyond those already associated with the development of the Site) appears impossible. Without an appropriate construction staging area, the ability to properly implement the standard construction management practices that would be required as part of the construction management plan and site development protocol that would be required for this project, to mitigate typical construction related short terms impacts – noise, dust and emission control, etc., appears difficult to achieve. No alternatives have been offered by the Applicant to address this concern.

CERTIFICATION OF FINDINGS

Having considered the Draft and Final EIS, and having considered the preceding written facts and conclusions and specific findings relied upon to meet the requirements of 6 N.Y.C.R.R. Part 617, this Statement of Findings certifies that:

1. The requirements of 6 N.Y.C.R.R. Part 617 have been met;

2. Consistent with the social, economic and other essential considerations, from among the reasonable alternatives thereto, the action does not minimize or avoid adverse environmental effects to the maximum extent practicable; including the effects disclosed in the environmental impact statement; and

3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process have not been minimized or avoided.

4. It is the Finding of the Planning Board that the proposed development of the Site, as described in the Preferred Plan, and in all of the Alternatives, would result in significant adverse environmental impacts that cannot be avoided.

Town of Harrison Planning Board

_____

Thomas Heaslip
Planning Board Chairman

_____

Date